

ORDINANCE NO. 1400-17

AN ORDINANCE AMENDING PLAN MAP 9-1 TO CHANGE THE PLANNING DISTRICT DESIGNATIONS OF TWO TAX LOTS LOCATED AT 6645 SW NYBERG LANE FROM GENERAL COMMERCIAL (CG) TO HIGH DENSITY RESIDENTIAL (RH) (PMA-16-0001)

WHEREAS, Nyberg Road Property, LLC filed an application for a Plan Map Amendment to amend Tualatin Plan Map 9-1 to change the planning district designations of two tax lots located at 6645 SW Nyberg Lane from General Commercial (GC) to High Density Residential (RH); and

WHEREAS, the City provided notice of PMA-16-0001 to the Oregon Department of Land Conservation and Development as provided under ORS 197.610; and

WHEREAS, notice of public hearing was given as required by Tualatin Development Code 1.031; and

WHEREAS, a public hearing was held before the Council on May 18, 2017, and the Council heard and considered the testimony and evidence presented by the applicant, City staff, and those appearing at the public hearing; and

WHEREAS, after the conclusion of the public hearing, the Council voted to approve the Plan Map Amendment.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

**Section 1.** Tualatin Community Plan Map 9-1 is amended as set forth in Exhibit 1, which is attached and incorporated by reference, to change the planning district designations of two tax lots located at 6645 SW Nyberg Lane from General Commercial (CG) to High Density Residential (RH).

**Section 2.** The Council adopts as its findings the Analysis and Findings set forth in Exhibit 2, which is attached and incorporated by reference.

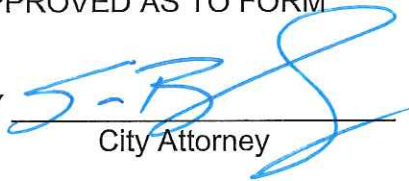
**Section 3. Severability.** Each section of this ordinance, and any part thereof is severable. If any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance remains in full force and effect.

Adopted by the City Council this 26th day of June, 2017.

CITY OF TUALATIN, OREGON

BY   
Mayor Pro Tem

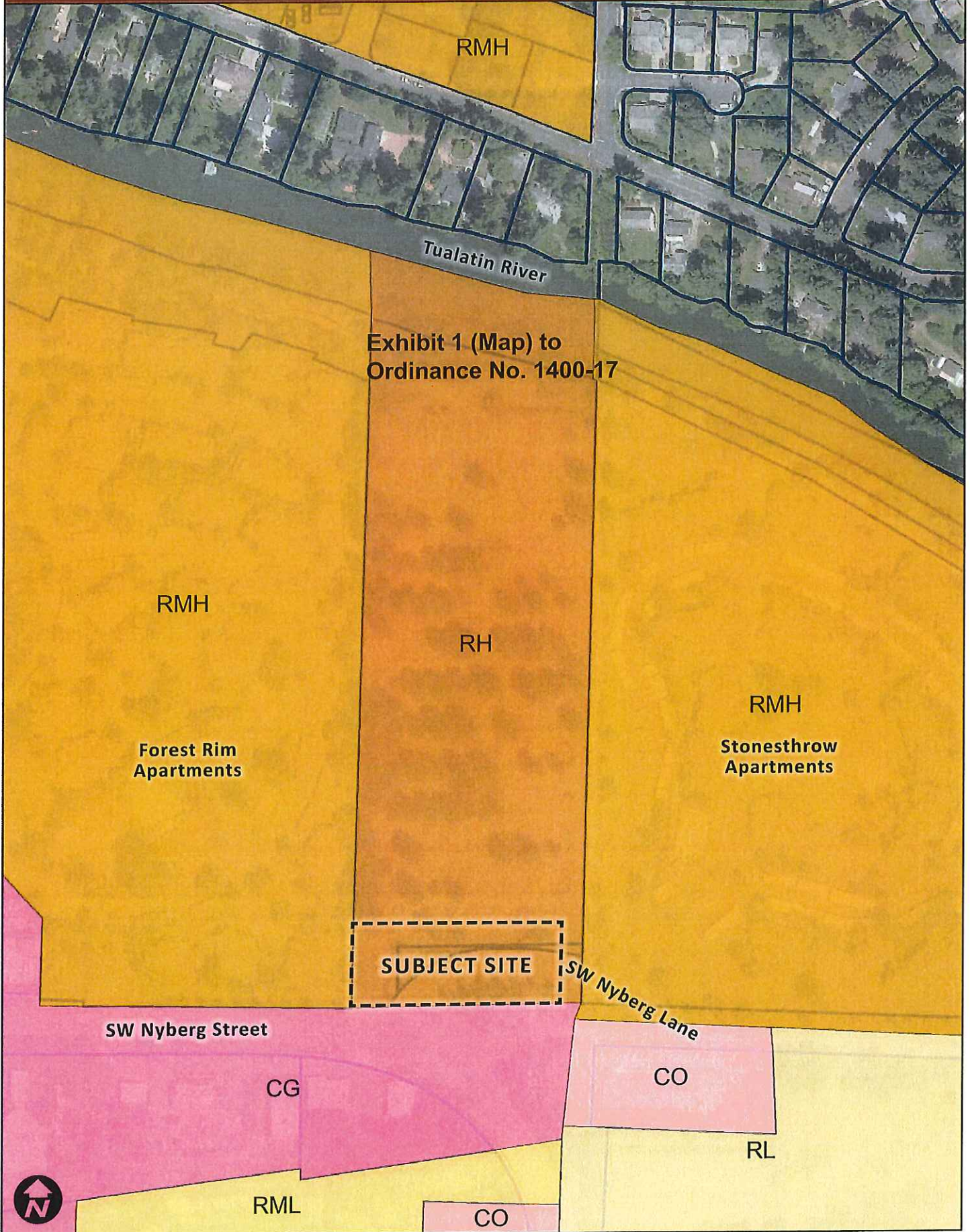
APPROVED AS TO FORM

BY   
City Attorney

ATTEST

BY   
City Recorder

Proposed Planning Districts



# EXHIBIT 2

## Ordinance No. 1400-17

### PMA 16-0001 Attachment 102: ANALYSIS AND FINDINGS

#### Proposal

The City has received an application requesting a Plan Map Amendment changing the planning designation of tax lot 2S1 24A 2600 and a portion of tax lot 2601 from General Commercial (CG) to High Density Residential (RH). Tax lot 2600 is approximately 0.1 acres and tax lot 2601 is approximately 10.85 acres. Together tax lots 2600 and 2601 form one legal lot under single ownership with an area of 10.95 acres. The majority of this property is zoned Residential High Density (RH) (10.31 acres or 94%) and the southernmost 50 ft (eastern boundary) to 137.95 ft (western boundary) is zoned General Commercial (CG) (0.64 acres or 6%). This current configuration was established through PMA-94-04.

The subject site has been historically used as an RV park, but the business closed in 2012. The property has set vacant since that time. The current owner of the site is proposing to construct high-density residential housing in a future and separate land use application.

The approval criteria of the Tualatin Development Code (TDC), Section 1.032, must be met if the proposed PMA is to be granted. The plan amendment criteria are addressed below:

#### 1. Granting the amendment is in the public interest.

Applicant Response: Please see Attachment 103 for full response.

In this case, the public interest standard is met. When the land was originally zoned General Commercial, it was part of a larger tract of land that enjoyed frontage on a busy street. The original intent was to allow a commercial business to take advantage of the busy street. The original intent was to allow a commercial business to take advantage of the high visibility offered by this street frontage. Examples of this development pattern can be seen on the southern frontage of SW Nyberg Street, which features a diverse group of mostly auto-oriented businesses, such as fast food restaurants, a 7-11, a car wash, gas stations, an oil change business, and commercial businesses such as a furniture store, dog rescue shelter animal hospital, and strip mall. However when the City determined that a portion of the subject property was need for traffic safety improvements, it took a portion of the commercially-zoned land for public use, presumably using its power of eminent domain. At the time, there was apparently no consideration given to the continued viability of the remainder portion of the property. Of course, at the time the intersection improvements were made, the commercially-zoned portion of the property was used for boat and vehicle storage which was accessory to a RV Park. For this reason, it was likely not considered a pressing concern. However, now that the RV Park is no longer operational, the continued viability of the remainder of the commercially-zoned portion of TL 2600 and 2601 is a critical use.

Certainly, there is an insufficient amount of commercially-zoned land remaining to support any viable stand-alone commercial enterprise, particularly an auto-oriented use that would benefit from its proximity to a high-visibility street. In fact, the land's size, shape, and close proximity to this busy intersection makes it unsuitable for supporting a stand-alone auto-oriented commercial use due to site circulation issues and limitations on access. Furthermore, since the vast majority of TL 2601 is zoned Residential High Density (RH), the highest and best use of this small sliver of commercial land is to use it in conjunction with the residentially-zoned land to the South, similar to the lands directly to the east and west of the subject property.

Staff Response: The general purpose of the Tualatin Community Plan (TDC Section 2.020) is to guide the physical development of the City so as to preserve the natural beauty of the area while accommodating economic growth. Specifically, the Plan is intended to define locations for both private and public land uses and to arrange these uses in a manner that reduces conflicts and provides convenient movement between individual land uses. The Plan is also intended to provide for diverse living and working environments of the highest quality. Staff considers the purpose of the Plan an appropriate measure in protecting the public interest.

It is additionally in the public interest to respond to an applicant's proposal for a Plan Map Amendment that will lead to subsequent land use actions to permit new development and redevelopment of property that is currently vacant and underutilized. Two tax lots (2600 and 2601) which total 10.95 acres are the subject of this amendment and currently stand vacant and underutilized. The applicant is requesting that 0.64 acres of General Commercial (CG) district land be amended to High Density Residential (RH), making the subject site entirely RH land. The applicant ultimately seeks to develop this property for a multifamily residential use, which is complimentary to uses described in Plan Map Area 5 (TDC Section 9.035) "Located east of the Interstate 5 Freeway, this area is primarily designated for low density residential uses, but contains substantial multi-family and commercial use north of Sagert Street and west of SW 65th Avenue."

The currently planning district configuration was established through PMA94-04 and Ordinance No. 918-94. The PMA94-04 application was submitted by Mr. Robert Johnson of Great Northwest Management Company to change TL 2601 and 2600 from Medium High Density Residential (RMH) to High Density Residential (RH), Medium High Density Residential (RMH) to General Commercial (CG), and General Commercial (CG) to High Density Residential (RH). It appears that tax lots were not amended to reflect the planning district change.

The applicant additionally mentions the Nyberg Street / SW 65th Avenue, and Nyberg Lane intersection improvement project and its impact to the subject CG land. This project was identified in the City of Tualatin's 2001 Transportation System Plan. In 2003, the City of Tualatin acquired a portion of tax lot 2600 for the Nyberg Lane improvement by Dedication Easement #2003-88103. This project was constructed in 2004 with SDC funds to improve the safety and operations of the existing intersection and included the completion of a sidewalk system along Nyberg Street. City Council, staff, and/or the property owner did not initiate a plan map amendment update as part of road improvement in 2004; therefore the planning district configuration was not changed.

The applicant states that the subject land in General Commercial district is constrained by "size, shape, and close proximity to a busy intersection making it unsuitable for supporting a stand-alone auto-oriented commercial use due to site circulation issues and limitations to access." The applicant further states that access from Nyberg Road to the subject site has a queue length of approximately 110 ft or five or six cars, making it unsuitable for an auto-oriented commercial use. They also note that convenience store, gas station, fast food, and coffee shop uses already exist in close proximity to the site. For this reason, they would like to amend the Plan Map to recognize the entirety of the legal lot as High Density Residential.

Staff finds that the General Commercial planning district (CG) is described in TDC Section 6.040(5) as providing "areas suitable for a full range of commercial uses, including those uses that are inappropriate for neighborhood, office or central commercial areas. This district is particularly suitable for automobile/service-oriented businesses, located along the freeway and major arterials. This District is suitable for mixed commercial and residential uses through the Mixed Use Commercial Overlay District on the Durham Quarry Site and in the Durham Quarry Area."

*The subject site is located adjacent to neighborhood developments to the east and west and a Minor Collector to the south. Additionally the site is not located in a Mixed Use Commercial Overlay district. For these reasons, staff finds that the subject CG district land is not maximized to uses described in the Tualatin Community Plan. Further the request to amend 0.64 acres to RH land would increase residential development opportunities up to 11 dwelling units. It is in the public's interest to grant the amendment so that the site may better align with the Tualatin Community Plan, with the future potential to be developed with high density housing options.*

*Granting the amendment is in the public interest. Criterion "1" is met.*

**2. The public interest is best protected by granting the amendment at this time.**

Applicant Response: Please see Attachment 103 for full response.

There is no reason to retain a commercial zoning designation on a sliver of land that cannot reasonably support any viable commercial land use activities. In most cases where the timing of a plan amendment is an issue, the timing issue relates to the inability of the local government to provide adequate levels of urban services to the property. In this case, there is no reason to believe that this change, which would facilitate infill development, should not occur at this time due to a lack of available public facilities or services. The change will have a *de minimis* impact, if any, on existing public facilities and services.

In addition, the proposed change facilitates redevelopment of the existing CG zoned portion of the overall 10.95 acre tract. The proposed change to Residential High Density is consistent with the 10.34 acre portion of the overall tract and is compatible with the adjacent RM zoning to the west and east. *(Staff finds that this sentence should state "The proposed change to Residential High Density is consistent with the 10.34 acre portion of the overall lot and is compatible with the adjacent RMH zoning to the west and east." Tracts are defined as non buildable units of land in the TDC.)*

Rezoning this land will increase the likelihood that the site will not remain vacant. Once residential units are built on the property, the property will generate more property tax revenue for the City. Multi-family residential development requires the payment of a Parks SDC, which is not required for commercial development.

Staff Response: *Staff finds that this amendment is timely, because a future proposal to develop this site is unlikely under current conditions. The applicant states that the 0.64 CG land is severely constrained and not suitable to commercial development. The applicant believes the one-way access into and out of the site is a primary deterrent to commercial, particularly retail, development. Adding additional dwelling units to this area is seen as viable, due to existing development patterns, transportation capabilities, public recreation opportunities, and proximity to commercial development.*

*Staff additionally finds that there are sufficient public facilities to serve this site, and the amendment of 0.64 acres to RH district land.*

*The public interest is best protected by granting the amendment at this time. Criterion "2" is met.*

**3. The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.**

Applicant Response: Please see Attachment 103 for full response.

*Staff has paraphrased the findings below for brevity.*

**Chapter 4 Community Growth Section 4.040 General Growth Assumptions:**

*To begin the composition of a planning map, certain assumptions must be made, based on available data. The following are the general growth assumptions used to develop this Plan, based on the data generated in the Phase I - Technical Memoranda:*

**(1) The approximate proportion of residential land to commercial and industrial land should be 60 percent residential and 40 percent commercial and industrial.**

*Staff Response: Staff finds that there is currently 49 percent residential land to 51 percent commercial and industrial land. The amendment of 0.64 acres of land from CG to RH will support the residential percentage.*

**Chapter 4 Community Growth Section 4.050 Objectives:**

**(4) Provide a plan that will create an environment for the orderly and efficient transition from rural to urban land uses.**

Applicant Response: The majority of the subject tract is zoned RH.

*Staff Response: Staff finds that the proposal matches the Neighborhood Planning Area No. 5 approach outlined for the area in Section 9.035 of the Tualatin Community Plan. As described in the plan "this area contains substantial multi-family use north of Sagert Street and west of SW 65<sup>th</sup> Avenue." By expanding the RH designation to the southern end of the subject site, the proposed plan change will maintain the transition to urban land uses and higher density housing will be maintained.*

**(6) Arrange the various land uses so as to minimize land use conflicts and maximize the use of public facilities as growth occurs.**

Applicant Response: As noted above, the proposed RH zoning is compatible with surrounding land uses. These include adjacent lands with the RMH residential zoning designations, as well as the nearby commercial land that includes retail establishments that will benefit from additional nearby residential customers. The eventual development on the subject property will also be compatible with the adjacent Tualatin River to the north by virtue of the vegetated corridor that be required by the Tualatin Development Code and Clean Water Services, which preserves open space along the river and a buffer between development and the river.

**(9) Prepare a plan providing a variety of living and working environments.**

**(15) Arrange the various land uses in a manner that is energy efficient.**

Applicant Response: The commercially-zoned portion of the property presents an impediment to the functional development of the site. The proposal will allow the applicant to better integrate the property for an appealing living environment that is close to employment, transportation, and retail. The development of multi-family in areas so close to potential destinations is an energy efficient arrangement of development. The proximity of the property to transit services also encourages transportation alternatives to the automobile. The proposed residential environment will also be unique to its location along the Tualatin River. Multi-family residential development along the river will increase the number of people who can enjoy this community asset while buffer areas required by the Tualatin Development Code and Clean Water Services will ensure that any development of the site does not affect the ecological health of the river.

**Chapter 5 Residential Planning Growth Section 5.030 General Objectives:**

- (1) Provide for the housing needs of existing and future City residents.**
- (2) Provide housing opportunities for residents with varied income levels and tastes that are esthetically and functionally compatible with the existing community housing stock.**

Applicant Response: The proposal will create additional residential land in an appealing area ideal for multi-family residential development. This addition will serve existing and future City residents. The multi-family residential development of this property will provide opportunities for individuals and families to live in a high quality area with the river as a positive amenity all while being in close proximity to the employment, services, and transportation. Such residential development will provide housing opportunity for a broad spectrum of income levels, particularly as an alternative to home ownership in a traditional, single-family residential setting (e.g. a residential subdivision).

- (4) Locate higher density development where it is convenient to the City's commercial core, near schools, adjacent to arterial and collector streets and, as much as possible, in areas with existing multi-family housing and provide residential opportunities in selected commercial areas through the Mixed Use Commercial Overlay District.**

Applicant Response: The proposed additional RH land is adjacent to an arterial street which is close to transit service (Tri-Met Route 96 is 1/5 of a mile away). *Staff notes that this sentence should state "The proposed additional RH land has access to an arterial street and is located 0.2 miles away from [transit service](#) (TriMet Route 76 Stop ID 3867)."* It is adjacent to land designated RMH, is near to existing multifamily housing, and has immediate access to commercial areas. It is served by the Bridgeport Elementary School, Hazelbrook Middle School, and Tualatin High School. All of these factors make the property ideal for higher density residential development. This conclusion is consistent with Section 9.035 of the Tualatin Community Plan that states that Area No. 5 "contains substantial multi-family and commercial use north of Sagert Street and west of SW 65<sup>th</sup> Avenue."

**Chapter 10 Community Design Section 10.020 Design Objectives:**

- (1) Encourage originality, flexibility and innovation in site planning and development, including the architecture, landscaping and graphic design of said development.**
- (3) Promote the City's natural beauty and visual character and charm by insuring that structures and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the esthetic qualities of the natural terrain and landscaping, and that proper attention is given to exterior appearances of structures and other improvements.**

Applicant Response: Any development of the property will be required to go through the City's design review process (Architectural Review) to ensure appealing and functional development of the site. Additionally, buffer areas required by the Tualatin Development Code will ensure that any development of the site does not affect the ecological health of the river and will ensure that the design of the site will leverage and enhance this unique community asset.

**Chapter 11 Transportation Section 11.610 Goals and Objectives:**

- (2)(b) Provide efficient and quick travel between points A and B.**
- (2)(c) Provide connectivity within the City between popular destinations and residential areas.**
- (2)(e) Reduce trip length and potential travel times for motor vehicles, freight, transit, bicycles, and pedestrians.**
- (2)(f) Improve comfort and convenience of travel for all modes including bicycles, pedestrians, and transit users.**
- (2)(g) Increase access to key destinations for all modes.**



Applicant Response: The property has excellent access to transportation resources and is in close proximity to employment and services. This makes the subject property ideal for multi-family residential development by making short travel times and trip lengths between destinations. Such proximity also creates more favorable conditions for the use of nearby transit service (located 0.2 miles southbound) and other alternative modes of transportation. Development of the subject property will also facilitate construction of an important link in the City's pedestrian path along the Tualatin River.

#### **Chapter 15 Parks and Recreation Section 15.020 Objectives**

##### **(5) Preserve the scenic value of the Tualatin River by creating a greenway along the entire bank of the River within the City.**

Applicant Response: The change in the plan designation will not affect the preservation of the greenway along the Tualatin River. Buffer areas required by the Tualatin Development Code and Clean Water Services will ensure that a greenway is maintained.

*Staff finds that the proposed amendment conforms with the objectives of the Tualatin Community Plan. Criterion "3" is met.*

#### **4. The following factors were consciously considered:**

Applicant Response: Please see Attachment A for full response to each criterion below.

*Staff has paraphrased the findings below for brevity.*

##### **The various characteristics of the areas in the City:**

Applicant Response: The area immediately adjacent to the subject site consists of medium-density residential (apartments) and general commercial uses. As previously noted, the vast majority of the subject site is zoned high density residential, which is consistent and compatible with the adjacent properties. Due to the realignment process of SW Nyberg Lane, the commercial zoned remnant portion of the subject site is no longer developable as commercial use.

Overall the proposed RH plan designation will match well with the adjacent residential uses in the area and will offer the benefit of new customers and employees to the businesses in the area.

*Staff Response: Staff finds that the applicant is referring to medium-high density residential district land that is located to the east and west of the site. General commercial uses are located on SW Nyberg Road, south of the subject site. The Tualatin River is located to the north.*

##### **The suitability of the areas for particular land uses and improvements in the areas:**

Applicant Response: Rezoning the land in question for multi-family residential development is fully compatible and consistent with the existing adjacent multifamily and commercial uses.

*Staff Response: Section 9.035 of the Tualatin Community Plan states that "this area contains substantial multi-family use north of Sagert Street and west of SW 65<sup>th</sup> Avenue." Staff finds that amending the plan designation from CG to RH is fully compatible and consistent with adjacent multifamily developments. The majority of the subject site (94%) is currently designated RH. The land also has good access to employment centers via the I-5 corridor (0.4 mile away).*

##### **Trends in land improvement and development:**

Applicant Response: The demand for additional multifamily housing units within Tualatin and the entire tri-county area is very high. A future application proposing multifamily development would

help address a market demand for housing.

**Property values:**

Applicant Response: The proposed redevelopment of the previously existing RV Park of Portland to multi-family housing will allow additional investment in the area which will increase property values of the subject property as well as its neighbors. As previously described, the RH designation is compatible with the zoning and development pattern in the area. Additionally, the development will provide customers for nearby retail and a more significant employee base for area office and manufacturing businesses. This will increase the value of these nearby commercial uses, and will enhance adjacent property values and will be an asset to the community.

Staff Response: *Staff finds that the subject property has remained vacant since 2012. The requested change will enable significant investment in Neighborhood Planning Area 5.*

**The needs of economic enterprises and the future development of the area:**

Applicant Response: The proposed multifamily housing will enhance the local economic demographic and will bring additional residents and revenue into the local economy and adjacent existing and future businesses. The additional residents will enhance the overall local economic community. Concentrations of residents are a pre-requisite to successful economic development in most areas of a city. The vitality and spending from residents on the subject property will have a greater, positive impact on local economy than the subject property's continued vacancy under its current commercial planning designations.

**Needed right-of-way and access for and to particular sites in the area:**

Applicant Response: The existing SW Nyberg Street, SW Nyberg Lane, and SW 65<sup>th</sup> Avenues were redeveloped in 2004 to provide better access to the local area. The proposed plan map amendment from the General Commercial to High Density Residential will reduce the overall trip generation and is effectively a "down zone" which will result in fewer daily trips. The existing right-of-way and proposed access to the subject site were adequate for high-density residential development.

Staff Response: *Staff notes that the Technical Memorandum provided by Lancaster Engineering, dated August 15, 2016 [Attachment 103] summarizes that the change in planning district will result in a net decrease of site trips and will not result in the need for additional traffic mitigation.*

**Natural resources of the City and the protection and conservation of said resources; and Prospective requirements for the development of natural resources in the City:**

Applicant Response: The portion of the overall site subject to the proposed plan map amendment does not contain any recognized natural areas and therefore this factor is not applicable.

Staff Response: *Staff notes that the overall property is adjacent to the Tualatin River which is an important community resource. The change in the plan designation will not affect the preservation of the Tualatin River. An architectural review of the multi-family residential development will analyze and address the river corridor.*

**The public need for healthful, safe, aesthetic surroundings and conditions.**

Applicant Response: The proposed plan change will allow the development of the currently vacant site into a vibrant residential development. A portion of the site will remain undeveloped and

enhanced due to the Tualatin River buffering requirements. This will create a pleasant experience for residents and the public who will have the benefit of the natural area along the river as well as excellent access to nearby employment, retail, and services.

**Proof of change in a neighborhood or area; and Mistake in the Plan Text or Plan Map.**

Applicant Response: The proposed plan map amendment is not motivated by any perceived change but is more appropriately characterized as a "mapping error" resulting from the roadway realignments.

Staff Response: The current planning district configuration was established through PMA94-04 and Ordinance No. 918-94. The PMA94-04 application was submitted by Mr. Robert Johnson of Great Northwest Management Company to change TL 2601 and 2600 from Medium High Density Residential (RMH) to High Density Residential (RH), Medium High Density Residential (RMH) to General Commercial (CG), and General Commercial (CG) to High Density Residential (RH). It appears that tax lots were not amended to reflect the planning district change, resulting in remnants of General Commercial on a portion of a tax lot.

The applicant additionally mentions the Nyberg Street / SW 65th Avenue, and Nyberg Lane intersection improvement project and its impact to the subject CG land. This project was identified in the City of Tualatin's 2001 Transportation System Plan. In 2003, the City of Tualatin acquired a portion of tax lot 2600 for the Nyberg Lane improvement by Dedication Easement #2003-88103. This project was constructed in 2004 with SDC funds to improve the safety and operations of the existing intersection and included the completion of a sidewalk system along Nyberg Street. City Council, staff, and/or the property owner did not initiate a plan map amendment update as part of road improvement in 2004; therefore the planning district configuration was not changed.

Staff recognizes that the CG site is constrained and that a residential designation would be a more appropriate designation for the residential neighborhood area.

Staff notes that the applicant sufficiently addressed the factors in this Criterion. Criterion "4" is met.

**5. The criteria in the Tigard-Tualatin School District Facility Plan for school facility capacity have been considered when evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment.**

Applicant Response: In this case, there is no need to resort to the formula set forth above. Converting 0.64 acres of land from CG to RH would not have a measurable impact on school capacity.

Staff Response: Staff has notified the Tigard-Tualatin School District about the proposal and has requested their comments. The school district map indicates that the property is located within the Bridgeport Elementary, Hazelbrook Middle, and Tualatin High School boundaries. The School District has indicated that sufficient capacity is available in their memo included as Attachment 107.

Criterion "5" is met.

**6. Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules, including compliance with the Transportation Planning Rule TPR (OAR 660-012-0060).**

The applicant has provided a response to Goals 1-14 and determined that Goals 15-19 are not applicable. Staff concurs with the applicant determination.

### **Goal 1 Citizen Involvement**

Applicant Response: The intent of Goal 1 is to ensure that citizens have meaningful opportunities to participate in land use planning decisions. Citizen involvement is always applicable to both quasi-judicial and legislative land use applications. The City's Development Code includes citizen involvement procedures with which the review of this application will comply. This process allows for citizens to communicate their input into application review conducted by the City at public hearings or by submitting written comments. This process has been acknowledged as being in compliance with Goal 1.

The applicant held a neighborhood meeting. The site has been posted with the neighborhood information and notices were mailed to all affected neighbors within 1,000 ft of the subject site. This application will be reviewed by staff, the Planning Commission, and the City Council. At least two public hearings will be conducted with the notice and opportunity to be heard presented, as required by the TDC.

Staff Response: *This request is following all citizen involvement requirements of the plan amendment process. This includes the holding of a neighborhood meeting and sending notices to neighbors.*

*The Tualatin Planning Commission reviews all Plan Amendments and makes recommendations to the City Council regarding adoption. Tualatin Municipal Code 11-1-060 (4) states that the Tualatin Planning Commission "[s]erves as the City of Tualatin Commission for Citizen Involvement" in accordance with Goal 1 Citizen Involvement.*

### **Goal 2 Land Use Planning**

Applicant Response: Goal 2 requires all incorporated cities to establish and maintain comprehensive land use plans and implementing ordinances. It also requires cities to coordinate with other affected government entities in legislative land use processes. The purpose of Goal 2 is "To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The Tualatin Development Code is acknowledged to be in compliance with the Statewide Planning Goals and associated guidelines. Goal 2's coordination obligation will be met because the applicant and city shall seek public comment from any affected unit of government, including METRO and any special district whose boundaries overlap with the site.

### **Goal 3 Agricultural Lands**

Applicant Response: Goal 3 is no longer applicable once land is included in an Urban Growth Boundary: OAR 660-024-0020(b). The land under review is within the City's jurisdictional limits, is anticipated to be redeveloped at an urban scale, and no identified agricultural lands are listed on site.

### **Goal 4 Forest Lands**

Applicant Response: The subject property does not contain forest land; therefore Goal 4 does not apply to this land. The Goal is also not applicable since the land is anticipated to be redeveloped at an urban scale.

Staff Response: *Staff notes that Goal 4 is no longer applicable once land is included in an Urban Growth Boundary: OAR 660-024-0020(b). Buffer areas are also required by the Tualatin Development Code which will ensure that any development of the property will not affect the*

forest.

**Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces**

Applicant Response: There are no identified Goal 5 resources on or near the portion of site which is proposed for rezoning from CG to RH. The northern portion of the tract is located within the Tualatin River Greenway. The portion of the subject property at issue is not designated as an open space, scenic, or historic area and has no Goal 5 natural resources to protect. There are no natural resources located on the subject property at issue.

Staff Response: Staff notes that the overall site is adjacent to the Tualatin River which is an important natural, scenic, and open space resource. The City has identified the greenway adjacent to the river as a significant forest resource. The change in the plan designation will not affect the preservation of the River or the forest resource adjacent to the river. Buffer areas are required by the Tualatin Development Code which will ensure that any development of the property will not affect the ecological or aesthetic value of the River or the forest. There are also no historic areas on the subject property.

**Goal 6 Air, Water and Land Resources Quality**

Applicant Response: The site is currently zoned for commercial use and is proposed to be zoned for residential use. Residential uses are generally considered to have less impact on air, water and land resources than commercial uses. Any development applications submitted in the future will create additional impervious surfaces which will increase storm water effluent unless those impacts are mitigated. However, it is reasonable and likely that engineering solutions exist which can successfully mitigate those impacts, and therefore, compliance with this goal can be deferred to future development proposals.

Staff Response: Staff notes the change in the plan designation will have no effect on air, water, and land resources quality or federal, state and, city regulations. Future land use applications will be reviewed to federal, state, and city standards.

**Goal 7 Areas Subject to Natural Hazards**

Applicant Response: The portion of the subject tract at issue is basically flat and devoid of natural hazards. There are no identified landslide areas on the subject property. The northern portion of the subject property has been identified by FEMA as being a Special Flood Hazard Area (i.e. is within the 100-year floodplain).

Staff Response: Staff notes that a portion of the subject property is located in the 100 year floodplain. Development of these areas is subject to existing rules and regulations that will not be modified by the proposed plan designation change.



### **Goal 8 Recreational Needs**

Applicant Response: Goal 8 requires government organizations with responsibilities for providing recreational facilities plan for meeting the recreational needs of the community. The City of Tualatin has adopted a Parks and Recreation Master Plan (1983) that implements this Goal.

The site is presently zoned CG and is proposed to be zoned RH. The site has not been planned for recreational use. The requested plan map amendment will not result in a reduction of land planned or reserved for recreational use.

Staff Response: Staff notes that the change in plan designation will enable development of the site and will provide a greater connection with and utilization of Tualatin River. Buffer areas are required by the Tualatin Development Code which will ensure that the greenway along the river and the river itself will be maintained as a recreational resource.

### **Goal 9 Economic Development**

Applicant Response: The Goal is applicable to commercial and industrial lands. In this case, the commercial land was rendered unusable when a portion was taken for public right-of-way use. The remainder is of an insufficient size to support commercial activities. Any effect on the City's supply of commercial land is *deminimus*.

Staff Response: The subject property is 0.64 acres in size and has remained vacant for five years. This portion of land was bisected by an improvement project that was identified in the City of Tualatin's 2001 Transportation System Plan as the Nyberg Street / SW 65th Avenue, and Nyberg Lane intersection improvement. In 2003, the City of Tualatin acquired a portion of tax lot 2600 for the Nyberg Lane improvement by Dedication Easement #2003-88103.

The Plan Map Amendment would have a negligible impact on the City's commercial land resources. The requested change will enable significant investment north of SW Nyberg. Additionally, the development will provide customers for nearby retail and a more significant employee base for nearby office and manufacturing businesses.

### **Goal 10 Housing**

Applicant Response: The site is currently zoned CG. The proposed zoning map amendment to RH would create small amount of additional buildable land for needed housing.

Staff Response: The Metropolitan Housing rule, OAR 660-007 is intended to establish residential density and mix standards to measure Goal 10 Housing compliance for cities and counties. Per OAR

660-007-0030 the City is to designate buildable land to provide an opportunity for at least 50 percent of new residential units as attached single family housing or multiple family housing. Staff has referred to 2015 Census data on housing estimates to establish total housing units provided in the table below. The total built housing estimate provides an indication of the City's current housing make-up. The amendment would add 0.45 acres of buildable land to the RH zoning district. Right of way and floodplain land were deducted from the 0.64 gross acreage of the subject site to make this determination. TDC 43.015 permits a maximum of 25 dwelling units per net acre; therefore subject site has the potential to add 11 multifamily units. This would result in a positive increase in multifamily units and would support the housing mix standard.

2015 Tualatin Total Housing Unit Estimate		
Type	Estimate	Percentage
Attached Single-Family/ Multifamily	5,011	44.9%
Detached Single-Family	6,155	55.1%

Per OAR 660-007-0035(2) the City of Tualatin is required to provide a net density of eight dwelling units per acre (8 du/ac). The City is currently in the draft stage of identifying its buildable land inventory. As part of the effort, the City is in the process of drafting language to define Net Buildable Acres. The analysis below represents gross acreage of land designated residential minus: present and future right-of-ways, restricted resource protection areas, slopes greater than 25%, public institutions, cemeteries, and restricted hazard areas. As shown, the proposed Plan Map Amendment would provide opportunities to provide a density of up to 8.4 dwelling units per net buildable acre.

DRAFT 2017 Buildable Land Inventory						
	RL	RML	RMH	RH	RH/HR	Total
Gross Acreage	2213.4	277.24	190.91	165.89	17.8	2865.24
Buildable Acreage	1195.23	188.33	118.04	78.42	0.6	1580.62
<i>PMA 16-01 Buildable Acreage</i>				0.45		0.45
<b>Total Net Buildable Acres</b>	<b>1195.23</b>	<b>188.33</b>	<b>118.04</b>	<b>78.87</b>	<b>0.6</b>	<b>1581.07</b>
<i>Maximum Density Allowed</i>	6.4	10	15	25	30	
Total Dwelling Units Allowed	7649.47	1883.3	1770.6	1971.75	18	13293.1
<b>Dwelling Units / Acre</b>						<b>8.4</b>

**Goal 11 Public Facilities and Services**

Applicant Response: The subject property is inside the City of Tualatin Urban Growth Boundary and has access to nearby public facilities and services. The applicant has met with City and Clean Water Services staff, and as reviewed below all relevant service providers have indicated that sufficient capacity exists to serve the site with the proposed plan designation.

Sanitary Sewer – The site is located within the Clean Water Services (CWS) Service Boundary. There is an existing 8-inch sanitary sewer main located in an easement located on the east property line. Staff notes that this line traverses the north end of the site, as well.

Storm Drainage (surface water management) – The site is located within the CWS Service Boundary. Storm drainage improvements required for development of the subject property will include the installation of a new outfall to the Tualatin River. Storm water quality treatment will be provided in accordance with CWS standards and potentially consist of water quality swales, low impact development approaches (LIDA), mechanical treatment, or a combination thereof. Storm water detention is not required due to the site proximity to the Tualatin River.

Staff notes that there is a 12” storm main with 10” lateral located on the SW corner of the site, near SW Nyberg Lane.

Potable Water – There is an existing City of Tualatin 8-inch potable water main in Nyberg Lane along the site frontage. Potable water service is available to the site by connecting to the existing main.

Staff Response: A Memorandum from the Engineering Division dated March 31, 2017 [Attachment 106] provides an analysis of Transportation Facility, Sanitary Sewer, Stormwater, and Water. The analysis is also included below.

Sanitary Sewer, Stormwater, & Water

Downstream sizing for all public utilities will need to be evaluated by the developer for the change from current zoning compared to the RH zoning with any associated future proposed redevelopment within an Architectural Review land use application. Any upsizing will be a requirement in the Architectural Review land use decision.

Public sanitary sewer lines exist within the development area to the west and north. Stormwater would need to be treated and released to the Tualatin River or to City lines within SW Nyberg Lane. Water laterals exist to the development at the southwest and southeast. The applicant will need to determine the location of water treatment, detention, and connections to the public lines prior to obtaining a Water Quality and Public Works Permit associated with the development of the future Architectural Review.

**Goal 12 Transportation**

Applicant Response: This Goal requires the City to prepare and implement a Transportation System Plan (TSP). The City of Tualatin completed a TSP update in 2013 and assumed that this site would be developed under the City’s current CG zoning designation. The proposal to change the subject property from CG to RH is not expected to have a significant effect on the local transportation facilities. The proposal will not change the functional classifications of the adjacent roadways. No development is proposed concurrent with this zone change request.

Staff Response: Staff notes that the City of Tualatin TSP was updated in February of 2014. Traffic impacts to the City’s transportation system will be reduced through the proposed amendment to RH. See enclosed Memorandum from Lancaster engineering, dated August 15, 2016 [Attachment 103].

A Memorandum from the Engineering Division dated March 31, 2017 [Attachment 106] provides an analysis of Transportation and addresses OAR 660-012-0060 the State’s Transportation Planning Rule. The analysis is also included below.

As demonstrated by the analyses and findings presented in the study, the proposed land use action is not expected to “significantly affect” any existing or planned transportation facility and is, therefore, expected to be in compliance with the State’s Transportation Planning Rule.

The scenarios generate the following traffic:

<u>Scenario</u>	<u>AM Peak</u>	<u>PM Peak</u>	<u>Total</u>
Existing Zoning Fast Food Restaurant Analysis	81	56	868
Proposed Zoning Apartments Analysis(12 units)	6	7	80
Change	-75	-49	-788



*This plan map amendment will reduce the AM and PM Peak traffic from the currently allowed uses, which would not increase the Level-of-Service at nearby intersections.*

*ODOT responded on March 27, 2017 that they have no issues with the zone change.*

**Goal 13 Energy Conservation**

Applicant Response: LUBA and the Courts have never given any regulatory effects to this Goal. Despite this, the rezoning of land from CG to RH will result in more efficient urban form, which should have at least a marginal effect on energy efficiency. The site is located immediately adjacent to other residential land. The proposed zoning map amendment would permit development in accordance with the Comprehensive Plan, with the potential to create an energy efficient land use pattern within the City limits of Tualatin.

Staff Response: Staff notes that a map amendment will lead to subsequent land use actions to permit new development and redevelopment of property that is currently vacant and underutilized. The amendment will additionally permit increased densities in an area with access to a high capacity transportation corridor (Nyberg Street, I-5). As such, the proposed plan change should result in more efficient energy usage.

**Goal 14 Urbanization**

Applicant Response: The subject property is already located within the City limits, and has been planned for urban land use. Goal 14 does not apply.

**Goal 15 Willamette River Greenway**

**Goal 16 Estuarine Resources**

**Goal 17 Coastal Shorelands**

**Goal 18 Beaches and Dunes**

**Goal 19 Ocean Resources**

*Staff notes that none of these goals apply, as the subject site is not in any of these planning areas.*

*Criterion "6" is met*

**7. Granting the amendment is consistent with the Metropolitan Service District's Urban Growth Management Functional Plan.**

Applicant Response: The applicant reviewed the provisions of Metro's Urban Growth Management Functional Plan ("UGMFP") and identified the following provisions in Title 4 that may be mandatory approval standards to a zone change seeking to convert commercial land to residential land use designations.

*Staff notes that the applicant has only responded to Title 4 of the UGMFP.*

**Title 4 (Metro Code Sections 3.07.410 – 3.07.450) – Industrial or Other Employment Area**

Map 9-4 in the Tualatin Community Plan shows the location of the Metropolitan Services District's Growth Concept Design Types. The subject site has a designation of "Employment Area."



Staff Response: Staff finds that the amendment meets the criteria of UGMFP 3.07.450(c) to amend the zoning regulation from CG to RH. The subject site designated as Employment Area is under 40

*acres; is not surrounded by land designated Industrial Area or Regionally Significant Industrial Area; is currently vacant and therefore the proposed amendment will not reduce employment capacity.*

**Title 1 (Metro Code Sections 3.07.110 – 3.07.120) – Housing Capacity**

The Regional Framework Plan calls for a compact urban form and a "fair share" approach to meeting regional housing needs. It is the purpose of Title 1 to accomplish these policies by requiring the city or county to maintain or increase its housing capacity except as provided in section 3.07.120.

*Staff Response: The Plan Map Amendment would change the planning designation of 0.64 acres of land from CG to RH. The request to amend 0.64 acres to RH land would increase residential development opportunities by up to 11 multifamily dwelling units. This change will increase the City of Tualatin's housing capacity thus meeting the requirements of Title 1.*

**Title 3 (Metro Code Sections 3.07.310 – 3.07.360) – Water Quality and Flood Management**

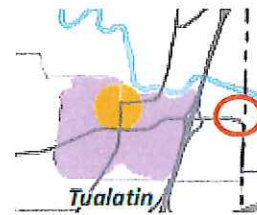
The intent of Title 3 is to protect the beneficial water uses and functions and values of resources within the Water Quality and Flood Management Areas by limiting or mitigating the impact on these areas from development activities and protecting life and property from dangers associated with flooding.

*Staff Response: Title 3 is the Metro response to Statewide Planning Goal 5, which calls for flood management and protection water and riparian resources. The subject site will confirm to these standards through review of a future Architectural Review application.*

**Title 6 (Metro Code Sections 3.07.610 – 3.07.650) – Centers, Corridors, Station Communities and Main Streets**

The Regional Framework Plan identifies Centers, Corridors Main Streets and Station Communities throughout the region and recognizes them as the principal centers of urban life in the region. Title 6 calls for actions and investments by cities and counties, complemented by regional investments, to enhance this role. A regional investment is an investment in a new high-capacity transit line or designated a regional investment in a grant or funding program administered by Metro or subject to Metro's approval.

*Staff Response: The subject site is located outside of the Tualatin designated town center. This title does not apply.*



**Title 7 (Metro Code Sections 3.07.710 – 3.07.750) – Housing Choice**

The Regional Framework Plan calls for establishment of voluntary affordable housing production goals to be adopted by local governments and assistance from local governments on reports on progress toward increasing the supply of affordable housing. It is the intent of Title 7 to implement these policies of the Regional Framework Plan.

*Staff Response: The housing developed in this project will be available at market rates for higher density housing helping to increase the supply of this needed housing type. Table 3.07-7 of the UGMFP calls for 120 needed units to serve households earning less than 30% of the median household income and 69 needed units to serve households earning 30-50% of median household income in the City of Tualatin.*

**Title 12 (Metro Code Sections 3.07.1210 – 3.07.1240) – Protection of Residential Neighborhoods**

The purpose of this title is to protect the region's existing residential neighborhoods from air and water pollution, noise and crime, and to provide adequate levels of public services.

Staff Response: Title 12 is not directly applicable. However, development of the subject property, which has been vacant and underdeveloped for several years, helps protect the surrounding uses from potential crime.

**Title 13 (Metro Code Sections 3.07.1310 – 3.07.1370) – Nature in Neighborhoods**

The purpose of this title is to conserve, protect and restore a continuous ecologically viable streamside corridor system that is integrated with upland wildlife habitat and the surrounding urban landscape.

Staff Response: Title 13 establishes a regional ethic of preservation of important wildlife habitat and natural areas. A portion of the subject property will be set aside as permanent open space in order to provide a natural corridor along the river which will be important for the preservation of riparian habitat.

Criterion "7" is met.

**8. Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.**

Applicant response: The applicant's TIA prepared by Lancaster Engineering demonstrates that the proposed zone change will reduce the trip generation allowed on the site.

Staff Response: The applicant provided a memorandum from their traffic engineer which is included in Attachment 103. As discussed in the memo the proposed plan designation change would reduce the potential number of trips that could be produced by a development on the property. As such, the change is consistent with the level of service standards set by the City.

Refer to the earlier analysis relating to Statewide Planning Goal 12 and the Engineering Division Memorandum dated March 31, 2017 [Attachment 106].

Criterion "8" is met.

**9. Granting the amendment is consistent with the objectives and policies regarding potable water, sanitary sewer, and surface water management pursuant to TDC 12.020, water management issues are adequately addressed during development or redevelopment anticipated to follow the granting of a plan amendment.**

Applicant response: Because any development resulting from this zone change would be in the nature of "in-fill" development, it does not trigger any of the concerns that the TDC 12.020 is intended to address. Sufficient water capacity presently exists to serve the uses proposed by future development. Water mains of sufficient size and capacity are already stubbed out to the subject property. All adjacent properties are already being served with water. Issues such as looping water systems and providing adequate fire flows can be addressed during any subsequent development applications.

Staff Response: Refer to the earlier analysis related to Statewide Planning Goal 11 Public Facilities and Services and the Engineering Division Memorandum dated March 31, 2017.

Sanitary Sewer, Stormwater, & Water

*Downstream sizing for all public utilities will need to be evaluated by the developer for the change from current zoning compared to the RH zoning with any associated future proposed redevelopment within an Architectural Review. Any upsizing will be a requirement in the Architectural Review decision.*

*Public sanitary sewer lines exist within the development area to the west and north. Stormwater would need to be treated and released to the Tualatin River or to City lines within SW Nyberg Lane. Water laterals exist to the development at the southwest and southeast. The applicant will need to determine the location of water treatment, detention, and connections to the public lines prior to obtaining a Water Quality and Public Works Permit associated with the development of the future Architectural Review.*

*Criterion "9" is met.*

**10. The applicant has entered into a development agreement.**

**(a) This criterion shall apply only to an amendment specific to property within the Urban Planning Area (UPA), also known as the Planning Area Boundary (PAB), as defined in both the Urban Growth Management Agreement (UGMA) with Clackamas County and the Urban Planning Area Agreement (UPAA) with Washington County. TDC Map 9-1 illustrates this area.**

**(b) This criterion is applicable to any issues about meeting the criterion within 1.032(9).**

*Staff Response: Staff notes that the subject property is located within the City of Tualatin boundaries. This criterion does not apply to the proposal.*